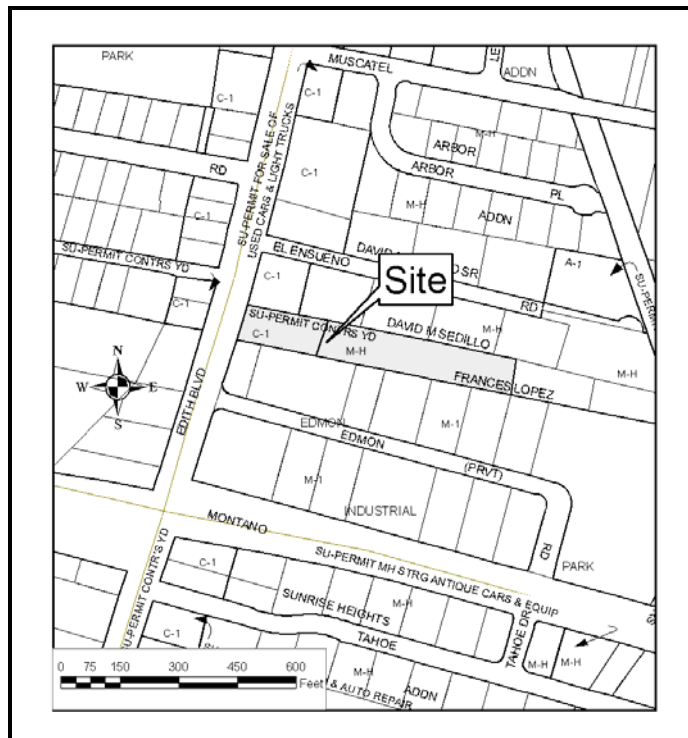


**Applicant:** Gonzales Partnership  
**Agent:** Matthew Rentals, LLC  
**Location:** 5710 Edith Blvd. NE  
**Property Size:** 1.5 acres (approximately)  
**Existing Zone:** C-1/M-H  
**Proposed Zoning/SUP** Special Use Permit for Contractor's Yard  
**Recommendation:** Deferral



**Summary:** This request is for a Special Use Permit for a Contractor's Yard on a 1.5 acre parcel on the east side of Edith Blvd. about 1000 feet north of Montano Rd. The property has C-1 and M-H zoning but received a Special Use Permit for a Contractor's Yard in 2000 (CSU-99-20). The Special Use Permit expired in January 2005, and the applicant is proposing to update the site plan, as there is a different contractor's yard on the site. This request has been deferred twice to allow the applicant to revise his site plan and address staff's comments.

**Staff Planner:** Catherine VerEecke, Program Planner

**Attachments:**

1. Application
2. Area and Land Use Maps
3. Notice of Decision and Administrative Amendment (CSU-93-22)
4. Special Use Permit Notices of Decision (CSU-99-20)
5. Notices of Violation
6. Letter/materials of opposition (for 9/7/05 hearing)
7. Requests for deferral (for 9/7/05 & 12/7/05 hearings)
8. Revised application and justification (for 4/5/06 hearing)
9. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 7/25/05 to 8/15/05 and from 2/27/06 to 3/13/06. Their comments were used in preparation of this report, and begin on Page 10.

**AGENDA ITEM NO.: 7**  
**County Planning Commission**  
**April 5, 2006**

CSU-50021 Gonzales Partnership, agent for Matthew Rentals LLC, requests approval of a Special Use Permit for a Contractor's Yard on Tract 1A, Frances Lopez Subdivision, MRGCD Map #32, SP-86-137, located at 5710 Edith Boulevard NE, zoned M-H & C-1, containing approximately 1.50 acres. (F-15) (DEFERRED AT THE DECEMBER 7, 2005 HEARING).

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land use</b>
	C-1/M-H (Special Use Permit for Contractor's Yard expired in 1/05)	Contractor's Yard
<b>North</b>	C-1 M-H	Single Family Residential
<b>South</b>	M-1	Light industrial
<b>East</b>	M-H	Single Family Residential
<b>West</b>	C-1/Special Use Permit for Contractor's Yard	Contractor's Yard

**BACKGROUND:**

**The Request**

This request is for a Special Use Permit for a Contractor's Yard on a 1.5 acre parcel located on the east of Edith Blvd. about 400 feet north of Montano Rd. The property has C-1 zoning in the front and M-H zoning in the rear.

This property has had Special Use Permits since the 1980s, each with a limited term of use. In 1986, the property received a Special Use Permit for landscaping materials, storage and sales, which never fully developed. In 1993, the previous owner requested a zone change from C-1/M-H to M-1 on the property (CZ-93-22). The County Planning Commission recommended denial of the request and approval of a Special Use Permit for a Contractor's Yard for a five year period. This decision was appealed by the owner, but the BCC upheld the decision to grant the Special Use Permit (See Attachment 3—Notices of Decision). In 1995, the Zoning Administrator approved an administrative amendment to allow mini-storage on the property (Attachment 3), which never developed, so that the contractor's yard remained in operation. This permit expired in 1998.

In November 1999, the Extraterritorial Land Use Commission (ELUC) recommended approval of the request by the current applicant for a Special Use Permit for a Contractor's Yard (CSU-99-20) with 19 conditions of approval (Attachment 4). The applicant appealed this decision regarding two of the conditions of approval, namely the term of use (2 years) and a solid wall abutting the residential development to the north to replace the existing fence. In January 2000, the Extraterritorial Land Use Authority (ELUA) granted the appeal by extending the term of the use to five years and eliminating the condition regarding the solid wall. The Special Use Permit expired in January 2005, and notices of violation were sent in March and June of 2005 (Attachment 5).

Request justification. The applicant is proposing to keep the site plan and uses essentially the same as under the previous Special Use Permit. In the response to Resolution 116-86, the applicant states that the proposed land use has not been harmful to the area, as it is consistent with other businesses in the area. He points out that the plan scenarios indicate that the location of the site has already developed with light industrial and heavy commercial uses. He also states he feels the property is currently in compliance with the conditions of approval of the previous Special Use Permit.

**Surrounding Land Uses and Zoning**

The subject property is in an area of mixed uses along Edith Blvd. The properties to the immediate north (along El Ensueno Rd.) have single family residences on them with residential zoning (mainly M-H zoning), although the parcel that fronts Edith Blvd. has C-1 zoning. The properties to the east of the site also have M-H zoning with single family residences on them. On the immediate west side of Edith Blvd. a property has C-1 zoning with a contractor's yard (CSU-80-30) and west of that is the Encanto subdivision with M-H zoning. To the south of the subject property is an industrial park with M-1 zoning.

The broader vicinity of the site near Edith Blvd. north of Montano Rd. also has a variety of uses. Generally, properties fronting on the east side of Edith Blvd. properties have C-1 zoning, though many appear not to be used for retail and have either heavy commercial uses or

residential uses. Beyond these lots to the east, properties are located in small residential subdivisions with M-H zoning. A few properties on the east side of Edith Blvd. have Special Use Permits for more intense uses than allowed by the existing C-1 zoning. These include a Special Use Permit for sale of used cars and trucks (CZ-95-13) and several Special Use Permits for Contractor's Yards (e.g., CSU-87-42; CZ-93-22).

On the west side of Edith Blvd., most properties now have M-1 zoning with light industrial uses, with the exception of a few residential properties with M-1 zoning and one residential subdivision (El Encanto Subdivision) in the midst of M-1 zoning.

### **APPLICABLE PLANS AND POLICIES:**

#### **Albuquerque/Bernalillo County Comprehensive Plan**

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal goal for this area is to "maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses."

#### **North Valley Area Plan**

This property is located within the Semi-Urban area of the North Valley Area Plan. The plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets, with the appropriate gross density at 1 to 3 dwelling units per acre.

Policy 2.3.c states that the City and County shall promote commercial development and redevelopment of existing commercially-zoned properties.

Policy 2d (Land Use) requires landscape buffering and other measures are necessary to limit potential impacts of non-residential uses on residential areas.

The property is also located in an area the Plan refers to as the Edith Blvd. corridor in a sub-area described as "rural-residential" between Osuna Rd. and Griegos Rd. However, the Plan does note that some locations within this area along Edith Blvd. have made a transition to manufacturing/heavy commercial uses. The Plan states that the "land use pattern should reflect the present zoning" (Appendix, p.4).

#### **Bernalillo County Zoning Ordinance**

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.

- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. There was an error in the original zone map.
  - 2. Changed neighborhood or community conditions justify a change in land use or
  - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
  - 1. denied due to lack of capital funds; or
  - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land

uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

The applicant has requested a new Special Use Permit for a Contractor's Yard for a property that has had such permits since the 1980s. The most recent permit, CSU-99-20, expired in January, and the applicant is now proposing to keep the site's uses and configuration essentially the same as under the previous permit.

The property has C-1 zoning in the front and M-H zoning in the rear, neither of which allow the types of uses that have been located on the site. The existing uses appear to be compatible with the heavy commercial and light industrial uses nearby the property along Edith Blvd., many which were established during the last twenty years under M-1 zoning or Special Use Permits. The contractor's yard use is less intense and diverse than the industrial uses on the adjacent property or nearby properties to the south, which have M-1 zoning. There are, however, residential developments to the immediate north and east of the property, which could be negatively impacted by the development, especially without the proper buffering.

### **Plans**

This property is located in the Semi-Urban Area. The Comprehensive Plan and the North Valley Area Plan suggest that this Area should retain its semi-rural, residential character and should not allow new permanent zone changes or special use permits for industrial or heavy commercial uses. However, the North Valley Area Plan does state in the Plan Scenarios that existing commercially-zoned properties may be developed or redeveloped with commercial uses, and it recognizes that parts of Edith Blvd. to the south of Osuna Rd. already have existing heavy commercial and light industrial uses.

### **Zoning Ordinance**

It appears this request is consistent with Resolution 116-86 of the Zoning Ordinance in that the particular use does not appear to have had a significant impact on adjacent properties and would be consistent with other uses in the area. It appears that 'changed neighborhood conditions' can be used as a justification for this request as there has been a trend towards M-1 zoning and C-2 uses in the area. The request is also consistent with the North Valley Area Plan policies that support the redevelopment of existing commercially-zoned properties.

### **Agency Comments**

County staff and representatives from other agencies have provided comments on this case. Several have no adverse comments for the proposed development. However, County Zoning staff indicates that the landscaping shown on the plan is inadequate and that landscaping on the site has died and needs to be replaced. Evidently, some of the landscaping proposed in 1999 was never planted and paving and handicap parking was not provided. Public Works staff indicate that a Grading and Drainage Plan was approved by staff in 1999 but the site does not comply with the plan and conditions of approval have not been met. Planning staff also noted during visits to the site that there is debris on the site as well as vehicles parked or

stored on the site that are not shown on the site plan. The applicant could correct this by cleaning the site and revising the site plan to reflect the current activities. The current fencing (chain link, draped) is unkempt in some places, although staff would argue that solid fencing should be required for the property lines that abut residential uses to replace the chain link fence.

### Analysis Summary

Zoning	
Resolution 116-86	Changed neighborhood conditions. Use appears to be consistent with other nearby uses along Edith Blvd.; needs to provide additional justification.
Requirements	Comply with code requirements for landscaping, fencing.
Plans	
Comprehensive Plan	Use is not inconsistent with Semi-Urban Area designation.
Area Plan	Use appears to be consistent with North Valley Area Plan policies and scenario regarding development of commercial properties.
Other Requirements	
Environmental Health	Has sewer and water accounts.
Public Works	Comply with approved grading and drainage plan.
Zoning	Inadequate landscaping.

### Conclusion

In conclusion, it appears that the renewal of the Special Use Permit for a Contractor's Yard could be appropriate in this instance. The uses could have limited impact on the area and would be relatively consistent with policies in the North Valley Area Plan regarding the redevelopment of commercially-zoned properties. Conditions of approval could help mitigate the impacts of the use on the nearby residential properties.

However, staff has observed that in addition to the debris on the site, conditions of approval from the previous Special Use Permit have not been addressed and the current development on the site does not appear to comply with the site plans reviewed by staff in 1999, particularly as regards:

1. landscaping
2. location of equipment/vehicle storage/office
3. provision of handicap spaces, and paving in designated areas
4. Completion of Grading and Drainage Plan conditions
5. Final site plan approved by Zoning Administrator

Staff is therefore recommending deferral of this request until these issues are adequately addressed.

**ADDITIONAL STAFF COMMENTS, APRIL 5, 2006**

This request was deferred at the September 7, 2005 and December 7, 2005 CPC hearings at the applicant's request to allow him to address staff's comments, particularly landscaping, accuracy of the site plan, provision of parking (including handicap), grading and drainage provisions (Attachment 7). In addition, concerns had been raised about the adequacy of fencing per the Zoning Ordinance and the justification per Resolution 116-86. There also was some neighborhood opposition to the request (Attachment 6).

Since the December 7, 2005 hearing, the applicant has made some effort to address the comments. He has revised the site plan to show the uses on the site and has revised his grading and drainage plan and submitted it to County Public Works for approval. The approval has been granted, subject to the implementation of the plan.

However, the landscaping (front and buffer) and fencing proposed for the site, which apparently follows the landscaping proposed under the previous Special Use Permit (expired in January 2005), are still not up to Code. County Zoning has provided comments to that effect.

Also contrary to the recommendations of staff and the County Planning Commission at the September 7, 2005 hearing, no additional justification has been provided since the request was first submitted.

The applicant should address all the comments of staff and the CPC before this request for a new Special Use Permit can be granted on this property that is now operating without the proper zoning.



**FINDINGS:**

1. This request is for approval of a Special Use Permit for a Contractor's Yard on Tract 1A, Frances Lopez Subdivision, MRGCD Map #32, SP-86-137, located at 5710 Edith Boulevard NE, zoned M-H & C-1, containing approximately 1.50 acres.
2. The property is zoned C-1 and M-H and is located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. This property had a Special Use Permit for Contractor's Yard and Equipment Sales for (CSU-99-20), which expired on January 25, 2005.
4. The applicant's site plan does not meet the County Zoning Ordinance requirements for landscaping (setback, buffering) and fencing (adjacent to residential properties), and the applicant has not provided an acceptable justification for approval of the request per Resolution 116-86.

DEFERRAL, based on the above Findings.

Catherine VerEecke  
Program Planner

## **BERNALILLO COUNTY DEPARTMENT COMMENTS**

### **Building Department:**

Corrections listed below must be corrected for approval: Two Request for service complaints remain unresolved. These must be cleared as a condition of approval. TMP

### **Environmental Health:**

COA Water and sewer is connected to the property acct. #230151617

### **Zoning Enforcement Manager:**

Must comply with below listed comments.

Currently there is a zoning violation for improper use as a contractors yard. Prevoius special use expired.

The curent landscaping is dead/ landscape plan is insufficient as far as proposed, shall comply with Landscape requirements.

No other adverse comments.

For 3/5/06

Must comply with below listed comments.

shall comply with previous comments to include a solid wall/fence required abutting residential zone.

shall comply with all other applicable zoning requirements for this project.

### **Fire:**

No comment received

### **Public Works:**

#### **DRAN:**

1. A grading and drainage plan is not required at this time as a condition of approval of this zone change request.
2. A grading and drainage plan, prepared by an engineer licensed in the State of New Mexico, approved by Bernalillo County Public Works Division is required of the entire site prior to any development.

Upon further review; a grading and drainage plan Case # PWDN 990181 was approved for this site. The site is non-compliant with the approved grading plan. It is recommended that the applicant comply with the approved grading and drainage plan prior to any further action.

For 4/5/06

1. A grading and drainage plan Case # PWDN 50113 has been approved for this site.

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2. This site must conform to the grading and drainage plan approved for this site.

DRE:

Construction plans for all facilities and/or improvements under Bernalillo County jurisdiction or within Bernalillo County right-of-way must be submitted to Bernalillo County Public Works Division for approval prior to construction. County permits must be obtained from Bernalillo 2. County Public Works Division (Raileen Bierner at 848-1529) at least 48 hour prior to commencing work.

For 4/5/06

No comments from BCPWD Infrastructure, Planning and Geo Resources.  
Address the DR comments from the 8-Aug-2005 review.

Parks & Recreation:

No comments.

Sheriff's:

No comment received

**COMMENTS FROM OTHER AGENCIES**

MRGCOG:

No comment.

AMAFCA:

No comment.

City Planning Department:

No comments received.

For 4/5/06

The Development Review Division of the Planning Department has reviewed the cases for April 5, 2006 and has no comment.

City Public Works:

Transportation Planning: No comments.

Transportation Development: No adverse comments.

Water Resources: I have no adverse comments on any of the September CPC cases.

City Transit:

No objection.

City Environmental Health:

No comments received.

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City Open Space:  
No comments received.

NMDOT  
No comments.

**NEIGHBORHOOD ASSOCIATIONS:**  
North Edith Corridor Association